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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,009	11/14/2003	Francoise Arnaud	244215US41CONT	7874
22850	7590	06/25/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			BAHTA, KIDEST	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,009

Applicant(s)

ARNAUD ET AL.

Examiner

Kidest Bahta

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) 4 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/16/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7-13, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lisinski et al. (U.S. Patent 5,260,866) in view of Toyota (U.S. Patent 5,862,050).

Regarding claims 1-3, 5, 7-13, 15 and 17-20, Lisinski discloses a method to structure and manage the configuration of an industrial product, taking account of options selected by a customer, comprising: updating a database for clarifying a definition of each technical object and its inter-relations with other objects in the configuration by an expression of rules and constraints (Fig. 2, Fig. 6, Fig. 8); interactively and dynamically using the database during definition of the product, through the selection of options by the customer (Fig. 6; Abstract). a knowledge management module (121); a contract management module (181); an administration module (101); a mass management module (102) all working on the database (Fig. 1). the industrial product is considered as a set of functions in a functional approach (Fig. 25); the contract management module works in connected or disconnected mode (Fig. 21); a technical object oriented configuration is used in which the options and the corresponding technical solutions are selected directly in a list sorted by ATA chapter, job category

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(column 6, lines 11-44; Fig. 5) and sales policy (Fig. 3B), this selection being made either individually or globally using a global procedure that joins a possible application and a weight to a set of options in the same functional domain (column 8, lines 14-38; column 9 and column 10); a functional oriented configuration is used that supplies a functional approach to directly select technical objects, specifying the required properties of a functional characteristic (column 5, lines 44-55); the contract manager may start a configuration checking process at any time (Fig. 5; Fig. 6), the industrial product is an aircraft (Abstract).

However, Lisinski fails to disclose a set of technical objects is described, each technical object either representing a product function, or describing an implementation method for making a product configuration for such a product function, these objects representing the manufacturing options of the industrial product.

Toyota discloses a set of technical objects is described, each technical object either representing a product function, or describing an implementation method for making a product configuration for such a product function, these objects representing the manufacturing options of the industrial product (Fig. 1; Fig. 3A).

It would have been obvious to a person of ordinary skill in the art at the time of invention to modify the teaching of Lisinski with the teaching of Toyota in order to provide a system of making it possible for anyone to easily precisely and quickly prepare a complicated and long production process flow in matching with a current situation of a production line.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/189,260 and claims 1-9 of copending Application No. 10/10/706,939. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed invention is fully disclosed in the copending applications. The only difference between the claimed method and the copending applications are process and system, respectively. It is clear that the claims in the application and the copending applications are basically the same.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Allowable Subject Matter

5. Claims 4, 6 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning communication or earlier communication from the examiner should be directed to Kidest Bahta, whose telephone number is (703) 308-6103. The examiner can normally be reached on M-F from 7:30 a.m. to 4:00 p.m. EST.

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached (703) 308-0538. Additionally, the fax phone for Art Unit 2125 is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Kidest Bahta

June 23, 2004